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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/751,185	12/29/2000	Larry R. Fairbanks	CPS1540-203B	8520
8698	7590	12/09/2004	EXAMINER	
STANDLEY LAW GROUP LLP 495 METRO PLACE SOUTH SUITE 210 DUBLIN, OH 43017			YIP, WINNIE S	
			ART UNIT	PAPER NUMBER
			3637	

DATE MAILED: 12/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/751,185

Applicant(s)

FAIRBANKS ET AL.

Examiner

Winnie Yip

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 September 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26, 29 and 30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-26, 29 and 30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 September 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

Part II DETAILED ACTION

This office action is in response to applicant's amendment filed on September 10, 2004.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 103

1. Claims 1-26 and 29-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Culpepper et al. (US Patent No. 6,029,415).

Culpepper et al. show and disclose, a vinyl siding panel comprising a facing panel (10) having a plurality of elongated planar portions (20) being edge-by-edge connected by a seam with a height to define a stepped contour (16) between the adjacent planar surfaces, the facing panel having an upper edge having a nailing strip (26) and a tongue (24), and a lower edge having a groove formed inside of a interlocking lip (18) for snap-receiving with the tongue of adjacent panel in the installation, each planar portion (20) having a width extending between a first edge (22) and a second edge (16) of the planar portion, wherein each planar portion (20) has a thickness about 0.035 inches (see col. 2, lines 35-36 or col.8, line 29) and a width about 6 inches (or 12 inches of two planar portions; see col. 8, line 31) which is "at least about 4 inches" as claimed, each planar portion (20) has a substantially straight surface with a surface variance of a suitable radius curvature due to the flexibility of the vinyl material, the surface variance is defined from the outer surface of the planar portion to an imaginary straight line (d) connected between the first (22) and second (16) edges of the planar portion, and a reinforcement panel (12) made of a foam material being adhesively secured to the planar surfaces. Although Culpepper et al. do not define the siding panel having the seam having specific height and the

planar surface having specific surface variance/radius curvature as claimed, Culpepper et al. discloses the siding panel being made of substantially same vinyl material and including the planar surfaces having a specific width and thickness substantially the same as claimed invention. Therefore, it would have been one of ordinary skill in the art, at the time the invention was made to perform a sliding panel of Culpepper et al. having the siding panel being performed equally well with the specific height of seams between the planar surfaces and having curved surface with specific surface variance/radius curvature of the planar surface as claimed because, due to the flexibility of the material of the siding panel, those specific dimensions achieve the same function of providing the siding panel with sufficient strengthen and rigidity to define a substantially straight face as needed. And, to create optimal dimensions for the width, the length, the thickness of the panel in order to achieve the same result of the surface variance of Culpepper et al. as claimed to accommodate the user's preference and various building structures requirements has been held that discovering an optimum value of a result effective variable involves only routine skill in the art.

Regard to claims 11-13, although Culpepper et al. do not specifically show the siding panel (5) having a third planar portion as claimed, Culpepper et al. discloses the siding panel (5) would include a plurality of similar planar portions (20) (See col. 4, line 37). Therefore, Culpepper et al.'s siding panel is considered to capably and specifically include one, two or three planar portions as claimed.

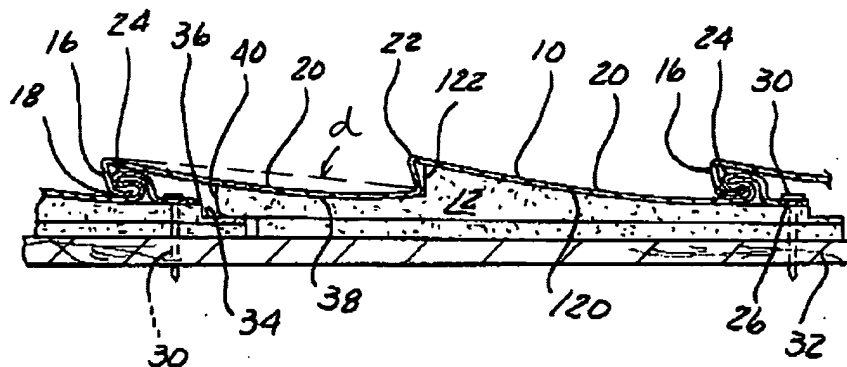


FIG - 2

2. Claims 1, 4-14, 17-26, 29-30 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Johnstone et al. '008 in view of Section 07460 on Siding of the Sweet's General Building & Renovation 1995 Catalog (referred to hereafter as the Sweet Catalog).

Johnstone et al. show and disclose, in Fig. 2, a vinyl siding panel comprising a plurality of rows including a first planar portion (46) and a second planar portion (46), the siding panel having an upper edge (adjacent the bend 36) having a nailing strip (20) and a tongue (14), and a lower edge having a groove (between bends 44 and 54) for snap-receiving the tongue of adjacent panel in the installation, wherein each planar portion (46) inherently has a width extending between a first edge (52 or 42) to a second edge (40 or 44) of the planar portion, each planar portion (46) has a gently curved surface (a bend) with a suitable surface variance and a radius of curvature (see col. 17, lines 17-24), wherein the surface variance is defined from the outer surface of the planar portion to a imaginary straight line connected between the first and second edge of the planar portion (see Fig. 2, the distance between two narrows), and the second planar portion (near the edge 44) having a first edge (42) connected to the second edge (40) of the first

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planar portion by a seam to define a stepped contour between the two planar portions (46).

Johnstone et al. do not define the siding panel having up to three planar surfaces. Johnstone et al. also fail to specifically define each planar surface having a specific surface variance/radius curvature of less than 0.05 inches between the first and second edges of the planar portions, and the specific dimension of the planar surface including the width of 4 inches or the thickness in a range of 0.04-0.05 inches, and the height of the seam between the planar surfaces being about 0.5 inches as claimed. However, the Sweet Catalog teaches various vinyl siding products ranging from one or two planar portions (Castle Ridge on pages 10) and three planar portions (Chatham Ridge on page 11), the vinyl siding product having a width of the planar surface about 3-5 inches, the normal thickness of the planar surface in the range of 0.04-0.05 inches (see the listing of the products specifications on page 20 of the Sweet Catalog, and Restoration Portfolio HP on page 7), and the height of the seam about 0.5 inches (see the far right box on product Chatham Ridge on page 11). It would have been obvious to one ordinary skill in the art at the time the invention was made to modify the vinyl siding panel of Johnstone et al. to be a single lap, double lap and triple lap singles and having the specific dimensions in the width, the thickness and the height of seams between the laps and to achieve the specific surface variance/radius curvatures as claimed as taught by Sweet Catalog as an obvious matter of design choice to accommodate the user's preference, various building structures requirements, and to achieve a desired appearance since applicant has not disclosed that the siding panel having specific dimensions that provides an advantage, is used for a particular purpose, or solves a stated problem. One of ordinary skill in the art, furthermore, would have expected applicant's invention, the siding panel, to perform equally well with the specific width and thickness as taught by Sweet Catalog as claimed

because those specific dimensions perform the same function of providing the siding panel having straight surfaces with sufficient strength to achieve suitable impact resistance as desired.

3. Claims 2-3 and 15-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Johnstone et al. '008 in view of Section 07460 on Siding of the Sweet's General Building & Renovation 1995 Catalog (referred to hereafter as the Sweet Catalog) as applied to claims 1 and 14 above, and further in view of Culpepper et al. '415.

The claims are considered to meet by Johnstone et al. combined with Sweet's Catalog except that both references do not define the siding panel having a foam reinforcement panel secured to the planar portions. Culpepper et al. teach a vinyl siding panel having a facing panel and a foam reinforcement panel secured to the planar portion of the face panel by adhesive for reinforcing the panel and enhancing the thermal insulation property of the siding. It would have been obvious to one ordinary skill in the art at the time the invention was made to modify the siding panel of Johnstone et al. combined with Sweet's Catalog and further having a foam reinforcement panel secured to the planar portion of the siding panel as taught by Culpepper et al. for providing reinforcement to the siding panel with elongated straight surface and enhancing the thermal insulation property of the siding panel as the claimed invention.

Response to Argument

4. Applicant's arguments, filed September 10, 2004, with respect to claims 1-26 being rejected under 35 U.S.C. 103 over Manning et al. '500 have been fully considered and are persuasive. The rejection of claims 1-26 over Manning et al. '500 has been withdrawn.

5. Applicant's argument, filed September 10, 2004, with respect to the rejections of claims as being rejected under 35 U.S.C. 103(a) over Johnstone et al. in view of Sweet Catalog has been fully considered and are not persuasive.

In response to applicant's argument that there is no suggestion to combine the references of Johnstone et al. with the Sweet Catalog, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, applicant first states that Johnstone et al. do not disclose the vinyl siding panel having specific dimension of surface variances or radius curvatures as claimed. We agree that this is so, otherwise our rejection would have been entered under section 102 of the statute. Applicant further mentions the dimensional limitations of each independent claim. While we acknowledge that the claims have these limitations, these limitations are not seen to distinguish over the combined teachings of Johnstone et al. and Sweet Catalog. The prior art, Johnstone et al. patent and Sweet Catalog, both disclose an elongate siding panel being made of vinyl material, having groove-tongue connection, and having a

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plurality of elongated planar surfaces connected by seams as claimed. Johnstone et al. further discloses an elongated vinyl siding panel having planar surfaces (46) generally having “a bend portion” with a suitable surface variance/ radius curvature (see Fig. 2) due to the flexibility of the elongated vinyl material (see col. 3, lines 17-24). Johnstone et al. disclose the elongated vinyl siding panel having structural limitation to limit the “bend portion” in order to provide a siding panel with straight faces to solve the same problem as claimed invention. Sweet Catalog is used as a reference only to teach a siding panel also being made of vinyl material and can be formed in various sizes with accommodated dimensions of planar surfaces in width, thickness, and total height of panel as claimed. Therefore, both Johnstone et al. and Sweet Catalog are considered to be the same art and the combination of the reference clearly meet the limitation of the rejection to solve the same problems as mentioned by applicant. One of ordinary skill in the art, furthermore, would have expected applicant’s invention to perform equally well with very the dimensions of the planar surface to achieve the desirable surface variance or the radius curvature of the elongate curved planar surface of the references as claimed because it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. This is a clear motivational teaching to modify the Johnstone et al. and Sweet Catalog combination.

Inquiry Contacts

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Winnie Yip whose telephone number is 703-308-2491. The examiner can normally be reached on M-F (9:30-6:30), Second Monday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 703-308-2486. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Winnie Yip
Primary Examiner
Art Unit 3637

wsy
November 24, 2004